

JAMES A. SCANAPICO

IBLA 83-691

Decided October 18, 1983

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease offer U-52191.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Non-competitive Leases

A simultaneous oil and gas lease offer is properly rejected where the executed lease forms and the first year's rental payment were not received by BLM within 30 days from the receipt of notice.

APPEARANCES: James A. Scanapico, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

James A. Scanapico appeals from a decision dated May 4, 1983, by the Utah State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offer U-52191, which was filed by him after he had received first priority for parcel UT 138 in the November 1982 drawings. BLM rejected the offer because appellant failed to submit the executed lease agreement, stipulations, and the first year's rental within 30 days from the date of receipt of notice, as required by 43 CFR 3112.4-1(a). That regulation provides, in pertinent part: "The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice. Timely receipt of the properly signed lease and rental constitutes the applicant's offer to lease." 43 CFR 3112.6-1(d) provides that the application of the first-qualified applicant shall be rejected if an offer is not filed in accordance with 43 CFR 3112.4-1.

Appellant received the notice of rental due, together with lease forms and attachments on March 7, 1983. Consequently, the executed lease forms, stipulations, and first year's rental were to be filed in the BLM office on or before April 6, 1983. The required lease forms and rental payment were received by BLM on April 7, 1983.

On appeal, appellant explains that his remittance was mailed on April 5, 1983, by United States Postal Service, Express Mail, with guaranteed next-day delivery.

[1] Under the provisions of 43 CFR 3112.4-1(a), the executed lease agreement and first year's rental payment must be filed in the proper BLM office within 30 days from the date of receipt of notice. BLM may not accept the forms and rental payment after the 30-day period, or excuses for their lateness, because the rights of the second- and third-qualified applicants have intervened. Richard W. Kulis, 72 IBLA 251 (1983); Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), *aff'd*, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). Strict compliance with the above regulation is mandatory in order to ensure fairness and uniformity to all applicants in the simultaneous drawing. Thomas E. Lewis, 70 IBLA 69 (1983); Warren R. Haas, 66 IBLA 107 (1982). Where an applicant fails to comply timely with the regulatory requirements, the application is properly rejected. Gerald E. Coleman, 70 IBLA 238 (1983).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

R. W. Mullen
Administrative Judge

